

**A RESOLUTION BY**

**CITY UTILITIES COMMITTEE**

**02- R -1901**

**A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF FIVE THOUSAND DOLLARS AND 00/100 (\$5,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS AT THE CLEAR CREEK CSO FACILITY ON OCTOBER 13, 2002 PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City has experienced a violation of Fecal Coliform Operational Standards as set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT Paragraphs XI.D.1; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation of CSO Fecal Coliform Operational Standards did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in account number 2J01-529017-M51001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:**

**Section One:** That the Chief Financial Officer of the City is authorized to issue checks in the amounts of Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) payable to the **State of Georgia** and Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

**Section Two:** That the said payments be chargeable to Account Number 2J01 529017 M51001.

## **EXHIBIT A**

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.1 as follows:

**Section XI.D.1. Fecal Coliforms between 8,000 and 32,000 colonies per 100 ml, May - October**

<b>Date</b>	<b>Facility</b>	<b>Colonies/100 ml</b>	<b>Penalty</b>	<b>Comment</b>
10/13/02	Clear Creek CSO	13,000	\$5,000	Inadequate Sampling

## TRANSMITTAL FORM FOR LEGISLATION

To Mayor's Office: Greg Pridgeon  
(for review & distribution to Executive Management)

Commissioner Signature *Jack E. Harrison*

From: Originating Dept. Water shed Management Contact (names) Ben Taube Ext. 6752 or  
David W. Peters Ext. 6073

Committee(s) of Purview: City Utilities Committee Committee Deadline: \_\_\_\_\_

Committee Meeting Date(s) \_\_\_\_\_ City Council Meeting Date: \_\_\_\_\_

### CAPTION:

A resolution to authorize payment of stipulated penalties imposed by the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Natural Resources of the State of Georgia (EPD) in the amount of Five Thousand Dollars and 00/100 (5,000.00) as stipulated penalties for the violation of CSO fecal coliform operational standards at the Clear Creek CSO facility on October 13, 2002 pursuant to the CSO consent decree, civil action file no. 1:95 -CV-2550-TWT; to identify the the sources of funding; and for other purposes.

### BACKGROUND/PURPOSE/DISCUSSION:

The City has experienced a violation of fecal coliform operational standards. Penalties must be paid to the Ga. EPD within 30 days of the incident.

### FINANCIAL IMPACT (if any):

#### Mayor's Staff Only

Received by Mayor's Office: 10/24/02 pv Reviewed: *[Signature]*  
(date) (initials) (date)

Submitted to Council: \_\_\_\_\_  
(Date)

Action by Committee: \_\_\_ Approved \_\_\_ Adversed \_\_\_ Held \_\_\_ Amended  
\_\_\_ Substitute \_\_\_ Referred \_\_\_ Other